

ORIGINAL

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E-filing

Attorneys for Plaintiffs

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 SAN FRANCISCO DIVISION

13 MARGITA GERGELOVA and VIKTOR
 14 GERGEL, individually, as successors-in-
 15 interest to ARNOLD GERGEL, deceased, and
 16 as co-Personal Representatives of the Estate of
 17 ARNOLD GERGEL; ALIA FAROUKH
 18 WARDE KHALIFEH and MOHAMAD ALI
 19 KHALIFEH, as successor-in-interest to
 20 HUSSEIN MOUNIR KHALIFEH, deceased
 21 and as Personal Representative of the Estate of
 22 HUSSEIN MOUNIR KHALIFEH; CAMILLE
 23 LACOME, individually, as legal guardian for
 24 ZOURI SALEMKOUR LACOME, as
 25 successor-in-interest to SAMIR SALEMKOUR,
 26 deceased and as Personal Representative of the
 27 Estate of SALEMKOUR LACOME;
 MATTHIEU ARRONDO, individually, as
 successor-in-interest to CATHERINE
 ARRONDO TAKVORIA, deceased and as
 Personal Representative of the Estate of
 CATHERINE ARRONDO TAKVORIA;
 CHANTAL KOEHLER, individually, as
 successor-in-interest to AUDREY QUESADA,
 deceased, SANA ZERELLI, deceased, and
 JASSIM ZERELLI, deceased and as Personal
 Representative of the Estates of AUDREY
 QUESADA, SANA ZERELLI, AND JASSIM
 ZERELLI; and GUY WARRIOR, individually,
 as successor-in-interest to NEIL WARRIOR,
 deceased and as Personal Representative of the
 Estate of NEIL WARRIOR;

Plaintiffs,

CIVIL CASE NO.:

CV 09 5020

COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL

1 vs.

2 AIRBUS S.A.S.; AIRBUS AMERICAS, INC.;
3 HONEYWELL INTERNATIONAL; THALES
4 GROUP; THALES U.S.A., INC.;
5 MOTOROLA, INC.; INTEL CO.;
6 ROCKWELL COLLINS CO.; HAMILTON
SUNDSTRAND CORP.; GENERAL
ELECTRIC CO.; GE AVIATION SYSTEMS,
LLC; GOODRICH CORP.; DUPONT CO.;
JUDD WIRE CO.; and RAYCHEM CO.;

7 Defendants.

8
9 Plaintiffs MARGITA GERGELOVA and VIKTOR GERGEL, individually and as
10 successors-in-interest to ARNOLD GERGEL, deceased, and as co-Personal Representatives of
11 the Estate of ARNOLD GERGEL; ALIA FAROUKH individually, as legal guardian for
12 KARIM WARDE KHALIFEH and MOHAMAD ALI KHALIFEH, and as successor-in-interest
13 to HUSSEIN MOUNIR KHALIFEH, deceased and as Personal Representative of the Estate of
14 HUSSEIN MOUNIR KHALIFEH; CAMILLE LACOME, individually, as legal guardian for
15 ZOURI SALEMKOUR LACOME, and as successor-in-interest to SAMIR SALEMKOUR,
16 deceased and as Personal Representative of the Estate of SAMIR SALEMKOUR; MATTHIEU
17 ARRONDO, individually and as successor-in-interest to CATHERINE ARRONDO
18 TAKVORIA, deceased and as Personal Representative of the Estate of CATHERINE
19 ARRONDO TAKVORIA; CHANTAL KOEHLER, individually and as successor-in-interest to
20 AUDREY QUESADA, deceased, SANA ZERELLI, deceased, and JASSIM ZERELLI,
21 deceased and as Personal Representative of the Estates of AUDREY QUESADA, SANA
22 ZERELLI, and JASSIM ZERELLI; and GUY WARRIOR, individually and as successor-in-
23 interest to NEIL WARRIOR, deceased and as Personal Representative of the Estate of NEIL
24 WARRIOR; through their undersigned attorneys, allege as follows:

25 JURISDICTION

26 1. This Court has jurisdiction over the subject matter of this case pursuant to 28
27 U.S.C. 1332 based on diversity of the parties and that the amount in controversy exceeds
28 \$75,000; as well as multi-party multi-forum jurisdiction under 28 U.S.C. 1369, in that it

1 involves at least minimal diversity between adverse parties and a single accident in a location
2 other than the state where a defendant resides where at least seventy-five persons died.

3 INTRADISTRICT ASSIGNMENT

4 2. Venue in the Northern District of California, San Francisco Division, is proper
5 pursuant to 28 U.S.C. 1398(a) and Local Rule 3-2, because a substantial part of the events and
6 omissions giving rise to the claims alleged herein occurred in this district.

7 PARTIES

8 3. Plaintiffs are the heirs and successors-in-interest to individuals who died when
9 Air France Flight 447 from Rio de Janeiro to Paris crashed into the Atlantic Ocean on or about
10 June 1, 2009, killing all on board.

11 4. Plaintiffs MARGITA GERGELOVA and VIKTOR GERGEL are Hungarian
12 nationals, and are the successors-in-interest to their minor child ARNOLD GERGEL and co-
13 Personal Representatives of his Estate, who died on board Air France Flight 447.

14 5. Plaintiff ALIA FAROUKH is a Lebanese national, and is the successor-in-interest
15 to her husband HUSSEIN MOUNIR KHALIFEH, and Personal Representative of his Estate,
16 who died on board Air France Flight 447. Plaintiff ALIA FAROUKH is also the mother and
17 legal guardian for KARIM WARDE KHALIFEH and MOHAMAD ALI KHALIFEH,
18 Lebanese nationals and the surviving minor children of HUSSEIN MOUNIR KHALIFEH,
19 deceased.

20 6. Plaintiff CAMILLE LACOME is a French national, and is the successor-in-
21 interest to her partner SAMIR SALEMKOUR and Personal Representative of his Estate, who
22 died on board Air France Flight 447. Plaintiff CAMILLE LACOME is also the mother and
23 legal guardian for ZOURI SALEMKOUR LACOME, a French national and surviving minor
24 child of SAMIR SALEMKOUR.

25 7. Plaintiff MATTHIEU ARRONDO is a French national, and is the successor-in-
26 interest to his mother CATHERINE ARRONDO TAKVORIA and Personal Representative of
27 her Estate, who died on board Air France Flight 447.

1 8. Plaintiff CHANTAL KOEHLER is a French national, and is the successor-in-
2 interest to her daughter AUDREY QUESADA, and her grandchildren SANA ZERELLI and
3 JASSIM ZERELLI and Personal Representative of their Estates, who died on board Air France
4 Flight 447.

5 9. Plaintiff GUY WARRIOR is a British national, and is the successor-in-interest to
6 his brother NEIL WARRIOR and Personal Representative of his Estate, who died on board Air
7 France Flight 447.

8 10. Defendants AIRBUS, S.A.S. is a French corporation with its principal place of
9 business located in Toulouse, France. Defendant AIRBUS AMERICAS, INC. is a Delaware
10 corporation with its principal place of business in Herndon, Virginia. Defendants AIRBUS,
11 S.A.S. and AIRBUS AMERICAS, INC. (collectively "AIRBUS") design, manufacture,
12 assemble, market, and sell commercial aircraft around the world, including the aircraft involved
13 in the Air France Flight 447 crash.

14 11. This Court has general jurisdiction over defendant AIRBUS as these defendants
15 do continuous and systematic business in this State, sufficient to subject them to the jurisdiction
16 of this State.

17 12. Defendant HONEYWELL INTERNATIONAL, INC., ("HONEYWELL") is a
18 Delaware corporation with its principal place of business in Morristown, New Jersey.
19 HONEYWELL designs, manufactures, assembles, markets, and sells aerospace systems and
20 products, including systems that were part of the Subject Aircraft and involved in the Flight 447
21 crash.

22 13. This Court has general jurisdiction over defendant HONEYWELL in that this
23 defendant does continuous and systematic business in this State, including maintaining
24 manufacturing, sales, and administrative offices in this State, sufficient to subject it to the
25 jurisdiction of this State.

26 14. Defendant ROCKWELL COLLINS, INC. ("ROCKWELL COLLINS") is a
27 Delaware corporation with its principal place of business in Cedar Rapids, Iowa. ROCKWELL
28 COLLINS designs, manufactures, assembles, markets, and sells aerospace systems and

1 products, including systems that were part of the Subject Aircraft and involved in the Flight 447
2 crash.

3 15. This Court has general jurisdiction over defendant ROCKWELL COLLINS as
4 this defendant does continuous and systematic business in this State, sufficient to subject it to
5 the jurisdiction of this State.

6 16. Defendant THALES GROUP is a French corporation with its principal place of
7 business in Neuilly-sur-Seine, France. Defendant THALES U.S.A., INC. is a Delaware
8 corporation with its principal place of business in Arlington, Virginia. Defendants THALES
9 GROUP and THALES U.S.A., INC. (collectively "THALES") design, manufacture, assemble,
10 market, and sell aerospace systems and products, including systems that were part of the
11 Subject Aircraft and involved in the Flight 447 crash.

12 17. This Court has general jurisdiction over defendant THALES as this defendant
13 does continuous and systematic business in this State, sufficient to subject it to the jurisdiction
14 of this State

15 18. Defendant MOTOROLA, INC. ("MOTOROLA") is a Delaware corporation with
16 its principal place of business in Schaumburg, Illinois. MOTOROLA designs, manufactures,
17 assembles, markets, and sells telecommunications products, including products that were part of
18 the Subject Aircraft and involved in the Flight 447 crash.

19 19. This Court has general jurisdiction over defendant MOTOROLA as this defendant
20 does continuous and systematic business in this State, sufficient to subject it to the jurisdiction
21 of this State

22 20. Defendant INTEL CO. ("INTEL") is a Delaware corporation with its principal
23 place of business in Santa Clara, California. INTEL designs, manufactures, assembles, markets,
24 and sells microprocessors and computing products, including products that were part of the
25 Subject Aircraft and involved in the Flight 447 crash.

26 21. This Court has general jurisdiction over defendant INTEL as this defendant
27 resides in this State, and does continuous and systematic business in this State, sufficient to
28 subject it to the jurisdiction of this State

1 22. Defendant HAMILTON SUNDSTRAND CORP. ("HAMILTON
2 SUNDSTRAND") is a Delaware corporation with its principal place of business in Windsor
3 Locks, Connecticut. HAMILTON SUNDSTRAND designs, manufactures, assembles, markets,
4 and sells aerospace systems and products, including systems that were part of the Subject
5 Aircraft and involved in the Flight 447 crash.

6 23. This Court has general jurisdiction over defendant HAMILTON SUNDSTRAND
7 as this defendant does continuous and systematic business in this State, sufficient to subject it to
8 the jurisdiction of this State.

9 24. Defendant GENERAL ELECTRIC CO. is a New York corporation with its
10 principal place of business in Fairfield, Connecticut. GE AVIATION SYSTEMS, LLC is
11 Delaware limited liability company with its principal place of business in Cincinnati, Ohio.
12 Defendants GENERAL ELECTRIC CO. and GE AVIATION SYSTEMS, LLC (collectively
13 "GE") design, manufacture, assemble, market, and sell aerospace systems and products,
14 including aircraft engines, that were part of the Subject Aircraft and involved in the Flight 447
15 crash.

16 25. This Court has general jurisdiction over GE as these defendants do continuous
17 and systematic business in this State, sufficient to subject them to the jurisdiction of this State.

18 26. Defendant GOODRICH CORP. ("GOODRICH") is a New York corporation with
19 its principal place of business in Charlotte, North Carolina. GOODRICH designs,
20 manufactures, assembles, markets, and sells aerospace systems and products, including systems
21 that were part of the Subject Aircraft and involved in the Flight 447 crash.

22 27. This Court has general jurisdiction over defendant GOODRICH as this defendant
23 does continuous and systematic business in this State, sufficient to subject it to the jurisdiction
24 of this State.

25 28. Defendant DUPONT CO. ("DUPONT") is a Delaware corporation with its
26 principal place of business in Wilmington, Delaware. DUPONT designs, manufactures,
27 assembles, markets, and sells wiring and other electrical products, including products that were
28 part of the Subject Aircraft and involved in the Flight 447 crash.

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1 36. Flight 447 was operated by the commercial airline Societe Air France ("Air
2 France"), which also owned or leased the Subject Aircraft.

3 37. On a date prior to the crash, AIRBUS designed, manufactured, assembled,
4 marketed, and sold Subject Aircraft. At the time that the Subject Aircraft left the custody and
5 control of AIRBUS, it was in a defective and unreasonably dangerous condition, including that
6 the radar system did not provide accurate data and weather information; the pilot tubes had a
7 tendency to become blocked and provide inaccurate speed information to the aircraft's air data
8 inertial reference units ("ADIRU") and flight control computers; the angle of attack sensors
9 provided inaccurate data to the ADIRUs and flight control computers; the ADIRUs provide
10 inaccurate information to the flight control computers and failed to filter out erroneous data
11 concerning airspeed and angle of attack; the flight control computers failed to filter out
12 erroneous data from the ADIRUs and their component parts; the sidestick controls provided
13 inaccurate information to the flight control computers; the flight control computers were such
14 that they did not prevent dangerous, erroneous, and unauthorized flight control movements; the
15 on-board software installed on the flight control computers, ADIRUs, and other components
16 failed to adequately filter out inaccurate data and provided erroneous information; the
17 microprocessors used in the flight control computers, ADIRUs, and other components
18 prevented the installed software from functioning properly and created inaccurate data; fight the
19 on-board ice detection system failed to properly detect and warn of the accumulation of ice on
20 the aircraft, including its engines; the aircraft engines lacked sufficient power to allow the
21 aircraft to recover from a stall in reasonably anticipated situations; the aircraft engines
22 experienced uncommanded power surges that resulted in the aircraft departing from controlled
23 flight; the aircraft engines were subject to accumulation of ice and did not include a safe method
24 to detect, warn, and remove accumulated ice on the aircraft and its engines; the aircraft wiring
25 was subject to wet and dry arcing, chafing, cracking, hydrolysis and pyrolysis of insulation,
26 which resulted in inaccurate information to be sent to the ADIRUs and flight control computers;
27 the ADIRUs, flight control computers, and other aircraft components lacked sufficient
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1 protection from electromagnetic interference; and the aircraft was unable to adequately or safely
2 recover from unusual altitudes.

3 38. Defendant HONEYWELL designed, manufactured, assembled, marketed, and
4 sold, component parts included on the Subject Aircraft, including but not limited to the ADIRU.
5 The ADIRU and other component parts designed and manufactured by HONEYWELL were
6 defective when they left the custody and control of HONEYWELL, and a proximate cause of
7 the crash as alleged above.

8 39. Defendant ROCKWELL COLLINS designed, manufactured, assembled,
9 marketed, and sold, component parts included on the Subject Aircraft, including but not limited
10 to the radar system. The radar system and other component parts designed and manufactured
11 by ROCKWELL COLLINS were defective when they left the custody and control of
12 ROCKWELL COLLINS, and a proximate cause of the crash as alleged above.

13 40. Defendants THALES designed, manufactured, assembled, marketed, and sold,
14 component parts included on the Subject Aircraft, including but not limited to the pilot tubes
15 and the software installed on the ADIRUs and flight control computers. The pilot tubes,
16 software, and other component parts designed and manufactured by THALES were defective
17 when they left the custody and control of THALES, and a proximate cause of the crash as
18 alleged above.

19 41. Defendant MOTOROLA designed, manufactured, assembled, marketed, and sold,
20 component parts included on the Subject Aircraft, including but not limited to the
21 microprocessors in the ADIRUs and flight control computers. The microprocessors and other
22 component parts designed and manufactured by MOTOROLA were defective when they left
23 the custody and control of MOTOROLA, and a proximate cause of the crash as alleged above.

24 42. Defendant INTEL designed, manufactured, assembled, marketed, and sold,
25 component parts included on the Subject Aircraft, including but not limited to the
26 microprocessors in the ADIRUs and flight control computers. The microprocessors and other
27 component parts designed and manufactured by INTEL were defective when they left the
28 custody and control of INTEL, and a proximate cause of the crash as alleged above.

1 43. Defendant HAMILTON SUNDSTRAND designed, manufactured, assembled,
2 marketed, and sold, component parts included on the Subject Aircraft, including but not limited
3 to the sidestick control. The sidestick control and other component parts designed and
4 manufactured by HAMILTON SUNDSTRAND were defective when they left the custody and
5 control of HAMILTON SUNDSTRAND, and a proximate cause of the crash as alleged above.

6 44. Defendants GE designed, manufactured, assembled, marketed, and sold,
7 component parts included on the Subject Aircraft, including but not limited to the aircraft
8 engines. The aircraft engines and other component parts designed and manufactured by GE
9 were defective when they left the custody and control of GE, and were a proximate cause of the
10 crash as alleged above.

11 45. Defendant GOODRICH designed, manufactured, assembled, marketed, and sold,
12 component parts included on the Subject Aircraft, including but not limited to the angle of
13 attack sensors and in-flight ice detection system. The angle of attack sensors, in-flight ice
14 detection system, and other component parts designed and manufactured by GOODRICH were
15 defective when they left the custody and control of GOODRICH, and were a proximate cause of
16 the crash as alleged above.

17 46. Defendants DUPONT, JUDD WIRE, and RAYCHEM designed, manufactured,
18 assembled, marketed, and sold, component parts included on the Subject Aircraft, including but
19 not limited to the wiring used on the Subject Aircraft. The wiring and other component parts
20 designed and manufactured by DUPONT, JUDD WIRE, and RAYCHEM were defective when
21 they left the custody and control of these Defendants, and were a proximate cause of the crash
22 as alleged above.

23 47. The defendants also failed to include adequate warnings of the above-described
24 defects, and AIRBUS failed to provide its Airbus A330 pilots with sufficient manual flight
25 training and testing during initial type qualification, and did not take sufficient steps to ensure
26 that the Airbus A330 pilots remained proficient in flying the aircraft manually.

27 48. As a direct and proximate cause of the defects, negligence, and other misconduct
28 alleged herein, each Defendant is liable to Plaintiffs for all the damages caused to those killed in

1 Flight 447, as well as survivor damages due to Plaintiffs. The amount in controversy well
2 exceeds \$75,000.

3 COUNT I

4 Negligence; Against all Defendants

5 49. Plaintiffs reallege Paragraphs 1 through 48 as though fully set forth herein.

6 50. In designing, manufacturing, assembling, marketing, and selling the Subject
7 Aircraft and its component parts, Defendants owed Plaintiffs and their decedents a duty to
8 design and manufacture the aircraft and its component parts in such a way that they were
9 reasonably safe, free of defects, and would not cause injury or death to aircraft passengers.
10 Defendants knew that the Subject Aircraft and its component parts would be used for air travel
11 and any defects would create the serious risk of harm or death.

12 51. Defendants breached their duties to Plaintiffs and their decedents by defectively
13 designing the Subject Aircraft and its component parts, as alleged above. Defendants further
14 breached their duties to Plaintiffs by defectively manufacturing the Subject Aircraft and its
15 component parts, as alleged above.

16 52. As a direct and proximate result of Defendants' negligence, the Subject Aircraft
17 crashed into the Atlantic Ocean on June 1, 2009, killing Plaintiffs' decedents, causing severe
18 terror and pain prior to impact, and resulting in both personal and pecuniary injuries, in an
19 amount to be proven at trial. Plaintiffs are the decedents' surviving heirs and successors-in-
20 interest, who have suffered grief, loss of support, companionship, and care, in an amount to be
21 proven at trial.

22 WHEREFORE, Plaintiffs pray for judgment as fully set forth below.

23 COUNT II

24 Products Liability; Against all Defendants

25 53. Plaintiffs reallege Paragraphs 1 through 52 as though fully set forth herein.

26 54. Defendants designed, manufactured, assembled, marketed, and sold the Subject
27 Aircraft and its component parts, as alleged above. The Subject Aircraft and its component
28 parts were defective and unreasonably dangerous, and left the custody and control of

1 Defendants in that defective and unsafe condition. Defendants knew that their defective
2 products were to be used in a commercial aircraft, and any such defect was likely to result in
3 serious injury or death.

4 55. On information and belief, there were alternative, safer designs for the Subject
5 Aircraft and the component parts described above, that would have prevented or significantly
6 reduced the risk of injury and death when used as part of a commercial aircraft. These
7 alternative designs were economically and technologically feasible at the time of design and
8 manufacture.

9 56. Defendants further failed to provide warnings to each other, Air France,
10 Plaintiffs' decedents, and Plaintiffs of the defective and unreasonably dangerous design and
11 manufacturing defects present in their products used aboard the Subject Aircraft, or that such
12 defects could and would result in serious risk of injury and death.

13 57. As a direct and proximate result of the design and manufacturing defects as
14 alleged above, and Defendants' failure to warn, the Subject Aircraft crashed into the Atlantic
15 Ocean on June 1, 2009, killing Plaintiffs' decedents, causing severe terror and pain prior to
16 impact, and resulting in both personal and pecuniary injuries, in an amount to be proven at trial.
17 Plaintiffs are the decedents' surviving heirs and successors-in-interest, who have suffered grief,
18 loss of support, companionship, and care, in an amount to be proven at trial.


19 WHEREFORE, Plaintiffs pray for judgment as fully set forth below.

20 **PRAYER FOR RELIEF**

21 Plaintiffs pray for judgment against Defendants as follows:

- 22 A. Damages to be awarded in an amount to be determined at trial, including general,
23 special, and compensatory damages;
- 24 B. Prejudgment interest;
- 25 C. Costs incurred in bringing this suit; and
- 26 D. Such other and further relief as the Court may deem just and proper.
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1
2 Dated: October 21, 2009




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DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury for all claims for which a jury trial is available, pursuant to Federal Rules of Civil Procedure 38(a) and (b).

Dated: October 21, 2009



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